

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CENTRAL STATES, SOUTHEAST AND  
SOUTHWEST AREAS PENSION FUND,  
CENTRAL STATES, SOUTHEAST AND  
SOUTHWEST AREAS HEALTH AND WELFARE  
FUND, and HOWARD McDOUGALL, trustee,

Plaintiffs,

v.

AGL RESOURCES, INC., a Georgia Corporation;  
NUI CAPITAL CORP., a Florida corporation; and  
PIVOTAL UTILITY HOLDINGS, INC.,  
f/k/a NUI UTILITIES, INC., a New Jersey corporation,

Defendants.

Case No. 07 C 6933  
Judge Blanche M. Manning  
Magistrate Judge Denlow

**INITIAL STATUS REPORT**

NOW COME Plaintiffs, Central States, Southeast and Southwest Areas Health and Welfare Fund, Central States, Southeast and Southwest Areas Pension Fund (collectively referred to as “the Funds”) and Howard McDougall, trustee and hereby submit their Initial Status Report in accordance with the Court’s standing order.

This matter is set for initial status on February 12, 2008. Based on Defendants’ Agreed Motion For Extension of Time to Answer or Otherwise Plead, the Defendants are required to answer or otherwise plead to the Complaint on or before February 6, 2008. To date, no answer has been filed by the Defendants to the Complaint. On February 1, 2008, Plaintiffs filed a First Amended Complaint.

1. Basis for Jurisdiction, Nature of Claims and Counterclaims: This is an action brought under the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C.

§1001 et seq., to recover past due employer contributions owed to the Funds by AGL Resources, Inc. ("AGL"), NUI Capital Corp. ("NUI") and Pivotal Utility Holdings, Inc., f/k/a NUI Utilities, Inc., ("Pivotal"), in accordance with applicable collective bargaining and trust fund agreements.

NUI and Pivotal were each bound by collective bargaining agreements under which they were each required to make contributions to the Funds on behalf of certain of their employees. AGL is the parent company of both NUI and Pivotal. Based on an audit of NUI's records and based on an audit of Pivotal's records, Plaintiffs allege that both NUI and Pivotal failed to pay all of the contributions owed to the Funds for the period of December 22, 2002 through December 25, 2005. Additionally, Plaintiffs allege that Pivotal failed to pay all of the contributions owed to the Pension Fund for the period April 1, 2001 through December 21, 2002 and failed to pay all of the contributions owed to the Pension Fund and the Health and Welfare Fund for the period for the period December 26, 2005 through December 31, 2007. As the parent company of NUI and Pivotal, Plaintiffs allege that AGL is liable for the debts of its two subsidiaries.

The Defendants have not filed any counterclaims.

2. Relief Sought by Plaintiffs: Pursuant to 29 U.S.C. §1132(g)(2), the Pension Fund seeks the recovery of:

- at least \$1,900 for unpaid contributions (not including interest) for the period of December 22, 2002 through December 25, 2005 from NUI or AGL; and
- at least \$91,000 for unpaid contributions (not including interest) for the period of December 22, 2002 through December 25, 2005 from Pivotal or AGL; and
- amounts that are unknown with specificity for the period of April 1, 2001 through December 21, 2002 and December 26, 2005 through December 31,

2007 from Pivotal or AGL; and

The Health and Welfare Fund seeks the recovery of:

- at least \$1,500 for unpaid contributions (not including interest) for the period of December 22, 2002 through December 25, 2005 from NUI or AGL; and
- at least \$191,000 for unpaid contributions (not including interest) for the period of December 22, 2002 through December 25, 2005 from Pivotal or AGL;
- amounts that are unknown with specificity for the period of December 21, 2005 through December 26, 2007 from Pivotal or AGL.

The Funds also seek recovery of: (i) delinquent interest; (ii) liquidated damages (iii) attorney's fees and costs; and (iv) audit fees and costs.

3. Names of Parties Not Served: All parties have been served with the First Amended Complaint through counsel.
4. Major Legal Issues: Plaintiffs assert that the principal legal issue is whether the Defendants are liable for delinquent contributions to the Funds.
5. Major Factual Issues: Plaintiffs assert that there are no factual issues at this time.

Respectfully submitted,

February 1, 2008

s/ Rathna C. Rodgers  
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Rathna C. Rodgers (ARDC #06239131)  
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**CERTIFICATE OF SERVICE**

I, Rathna C. Rodgers, one of the attorneys for Plaintiffs, certify that on February 1, 2008, I electronically filed the foregoing Initial Status Report with the Clerk of the Court using the ECF system. This filing was served on all parties indicated on the electronic filing receipt via the ECF system.

s/ Rathna C. Rodgers  
Rathna C. Rodgers (ARDC #06239131)  
Attorney for Plaintiffs